IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 12490 of 2004

Between:

Challa Venkateswaramma, w/o C.Maddilety,
7th Ward Member, Palukur Gram Panchayat,
Kurnool District.

..... PETITIONER

AND

1 The District Collector (Panchayat Raj), Kurnool.
2 The Divisional Panchayat Officer, Nandyal, Kurnool District.
3 The Panchayat Secretary, Palukur Gram Panchayat,
Banaganapalle Mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of mandamus declaring the order passed by the 1st respondent herein in Roc.No.1409/Pts.A1/2004 dt.6-7-2004, as arbitrary, illegal without jurisdiction and opposed to principles of natural justice and fair play and consequently direct the respondents to continue the petitioner as 7th Ward Member of Palukur Gram Panchayat, Kurnool District.

Counsel for the Petitioner:MR.T.S.ANAND

Counsel for the Respondents : Government Pleader for Panchayat Raj

The Court at the stage of admission made the following O R D E R:

Heard both sides.

Petitioner has not denied the fact of her disqualification under Section 19(3) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short "the Act") for having more than two children, and in fact, it is positively asserted in para 3 of the affidavit filed in support of the petition that she was advised to make a representation to the Government seeking exemption of disqualification.

A Division Bench of this Court in ***Chava Rosaiah v. Chintala Venkateswarlu and another*** held that Collector cannot disqualify a person and he can only refer the matter to the District Court under Section 22 of the Act for deciding the said issue.

This Court is not inclined to exercise discretion in favour of the petitioner, when admittedly she has no right to continue in Office for her having three children and the Government has also no power to grant exemption in favour of the petitioner as the petitioner incurred disqualification under the Act.

Under the above circumstances, petitioner is at liberty to raise a dispute before the District Court, having jurisdiction, under Section 22 of the Act, against the impugned order of disqualification.

The writ petition is accordingly disposed of.

20-07-2004

Note:Furnish C.C. in two days

B/o

vrn

To

1 The District Collector (Panchayat Raj), Kurnool.
2 The Divisional Panchayat Officer, Nandyal, Kurnool District.
3 The Panchayat Secretary, Palukur Gram Panchayat, Banaganapalle Mandal, Kurnool District.

4 Two C.Cs to the Government Pleader for Panchayat Raj,

High Court Buildings, A.P., Hyderabad (OUT)

5 Two C.D copies.